

United State District Court

for the

District of Massachusetts

Luis Rivera,  
Petitioner  
V.  
David nolan,  
Respondent.

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NO.04-12717-RCL

FILED  
IN CLERKS OFFICE

2007 MAY 21 P 1:23

U.S. DISTRICT COURT  
DISTRICT OF MASS.

Date 5/17/2007

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Petitioner's renewal of the motion  
for appointment of council. for all proceeding  
including rule 8 full evidentiary hearing.

Now comes the Pro-se Petitioner, and in relation to his  
U.S. court of appeal judgment enter may 15, 2007. #05-2418.

Moves this honorable court to appoint council  
under criminal justice act.

Furthermore, I request that attorney Chauncey Wood of  
Shea, LaRocque & Wood,LLP be appointed.

Mr. Wood has authorized me to inform the court that he  
has reviewed the case and is ready and willing to accept  
appointment. A copy of his letter to me is enclosed with this  
motion.

I pray this honorable court grant the motion.

Luis F. Rivera  
P.O. box 43  
Norfolk, Ma. 02056

Sincerely,

*Luis F. Rivera*

Luis F. Rivera

cc: Ms. McLaughlin

SHEA, LAROCQUE & WOOD, LLP

47 THIRD STREET, SUITE 201  
CAMBRIDGE, MASSACHUSETTS 02141-1265

MARK W. SHEA  
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April 13, 2007

Mr. Luis Rivera, W52832  
MCI - Norfolk  
2 Clark Street, P.O. Box 43  
Norfolk, MA 02056

Dear Mr. Rivera:

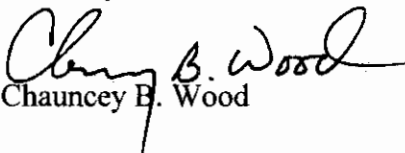
I have received your package concerning your federal habeas litigation. I reviewed it quickly. You ask whether I have "any opinion or insight". I am not sure what you mean. Having reviewed the affidavit of Mr. Pacheco, and your memorandum in support of a Certificate of Appealability, I think you have made an interesting argument both on the merits and as to why you have satisfied the statute of limitations applicable to claims brought under 28 U.S.C. § 2254.

I note, however, that Mr. Pacheco indicated he was incarcerated at MCI Walpole. When I tried to find him in the DOC system I could not. If he is still incarcerated, and he is facing a lengthy sentence, this would create an obvious explanation for his willingness to recant - he has nothing to lose since he is already incarcerated and lots to gain, since by recanting he helps out a fellow inmate. (If he has been released, this reasoning would not apply.) Please understand, I am not saying that he is lying. Rather, I am simply noting what the Court will think. Nevertheless, I think a Court might grant your request for an appeal and then remand the matter to the district court for an evidentiary hearing.

Beyond this, I am not sure if you are asking me to represent you. If you are, I would be happy to do so in the event that the First Circuit grants your request for a Certificate of Appealability. I assume you do not have the funds to retain me because you filed a request to proceed in forma pauperis. Therefore, you would have to convince the Court of Appeals to appoint me. If you wish to do so, you may write to the Court of Appeals and ask them to appoint me to handle your case under the Criminal Justice Act. I authorize you to inform them that I have reviewed the case and am willing to accept the appointment.

In any event, I wish you the best of luck in your efforts to obtain your freedom.

Sincerely,

  
Chauncey B. Wood

Certificate of Service

I, Luis Rivera, Pro-se petitioner/Appellant in the matter of Rivera v. Nolan (DC No: 04-CV-12717), do hereby certify that a true and accurate copy of petitioner/Appellant's Motion for renewal of Motion for Appointment of counsel, have been served upon MAURA D. McLAUGHLIN, A AG at the office of the Attorney General, one Ashburton Place, 18th Floor Boston, Massachusetts 02108, by mailing same, 1st class mail, Postage Prepaid on this 17th day of May, 2007.

Signed under the pains and penalties of perjury

Luis F. Rivera Jr

Luis F. Rivera Jr

CC: HON Reginald C. Lindsay

CC: ms. McLaughlin